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OFFICE OF PETITIONS

In re Application of
Yoshida et al.
Application No. 10/660,875
Filed: September 12, 2003
Attorney Docket No. 114GI-104B

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Applications, No. 09/374,860, filed August 16, 1999, and No. 09/066,382, filed April 29, 1998.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition fails to comply with item (3) above.

The instant petition does not contain a proper statement of unintentional delay in compliance with 37 CFR 1.78(a)(3)(iii). Before the petition under 37 CFR 1.78(a)(3) can be granted, petitioner must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
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By FAX: (571) 273-8300
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Any questions concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.


Frances Hicks
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